

(1) First and Final Account and Report of Administrator and Petition for Its Settlement, (2) for Allowance of Compensation to Administrator and Attorney for Ordinary Services and (3) for Final Distribution

Age: 3/30/2003		DARRELL DEAN MOBLEY , Administrator, is petitioner. Account period: 3/30/03 – 12-30-13 Accounting - \$47,681.92 Beginning POH - \$44,678.65 Ending POH - \$22,857.99 Administrator (statutory) - \$1,907.28 Attorney (statutory) - \$1,907.28 Closing - \$2,000.00 Distribution of property on hand in partial satisfaction of their creditor's claim is to: Franchise Tax Board - \$17,043.43	NEEDS/PROBLEMS/COMMENTS: Continued to 4/14/14 at the request of the attorney. 1. Creditor's Claims filed by; Fancher Creek Packing, MBNA, Sears, Cade Ranch and Bank of America were rejected on 1/8/14. The claimants have 90 days in which to file an action on the rejected claim. Therefore it appears that the estate will not be in a condition to close until after April 8, 2014.
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg W/O		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters 6/17/03		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice N/A		

Reviewed by: KT
Reviewed on: 3/5/14
Updates:
Recommendation:
File 1 – Mobley

Second Account Current of Trustee

DOD: 4-14-12		ESTHER F. SOTELO , Granddaughter and Trustee with bond of \$10,000.00, is Petitioner. Account period: 1-1-11 through 12-31-13 Accounting: \$207,070.34 Beginning POH: \$200,000.00 Ending POH: \$200,000.00 (real property)	NEEDS/PROBLEMS/COMMENTS: <u>SEE ADDITIONAL PAGES</u>
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Trustee: Petitioner requests fees to be deferred until the trust is ready for distribution Attorney: Petitioner requests fees to be deferred until the trust is ready for distribution	
<input checked="" type="checkbox"/>	Aff.Mail		W
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		Petitioner states Mrs. Esther Sotelo died on 4-14-12. The trust has been kept open because the trustee wants to maximize the return on sale of the trust's principal asset, a house in Pasadena, Ca., prior to distribution. There was substantial deferred maintenance on the property when the Sotelo Conservatorship (03CEPR01364) was first established. The trustee has personally made several trips to perform repairs and improvements, and a caretaker, who has been residing at the property, has invested a substantial sum of money in repairs in exchange for rent.
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Petitioner prays that:			
1. Notice of the hearing of this Account, Report, and Petition be given as required by law;			
2. The Court make an order approving, allowing, and settling the second account and report of the trustee and granting the petition as filed;			
3. The Court defer ruling on compensation for Petitioner and her attorneys until the estate has funds to pay such compensation; and			
4. Such other relief be granted as the Court considers proper.			

Page 2

1. Receipts Schedule is missing receipts from January 2011 through November 2011 (Social Security income, etc.).
2. Need account statements pursuant to Probate Code §2620.
3. Article V requires distribution of the trust upon the death of the grantor. Mrs. Sotelo died almost two years ago, but this petition is not filed as a final account and Petitioner does not indicate a time frame for distribution and termination of the trust; only that she wants to maximize the return on sale prior to distribution. The trust needs to be terminated. The Court will set a status hearing for termination. See below.
4. Examiner is unable to determine from this trust file whether Petitioner is now the sole beneficiary, or whether there are others. The trust states that after the Grantor's death, the trustee shall allocate the assets into equal shares for the living children of the Grantor's deceased son Andrew Sotelo. The file indicates that Petitioner is Andrew Sotelo's daughter; however, it is unclear if she has siblings. Need clarification: Did Andrew Sotelo have any other children? Who are the other relatives that were sent notice of this hearing?

(Please note that although this information may have been previously provided to the Court in prior filings or in the conservatorship file, that file is located at the Court's archives and is not available at this time. All necessary information should always be included in the instant petitions rather than relying on Examiner to research years and volumes of past filings.)

5. Attorney Nancy LeVan filed a Request for Special Notice in this trust proceeding, which indicates that there may be payment owing in connection with the conservatorship proceeding. The Court require clarification as to whether all of the conservatee's final bills have been paid, since she passed away approx. two years ago.
6. It appears the trustee's bond amount of \$10,000.00 was based on the conservatorship bond and the conservatee's income, and did not need to cover the real property because sale of the conservatee's real property would require Court oversight during her lifetime. However, at this time, the Court may require further information to determine if increased bond is needed to protect other beneficiaries during the final administration of the trust.

Note: The Court will set a status hearing for the filing of the final account and petition for final distribution for Friday 6-13-14.

**Petition to Determine Title and Request Transfer of Personal Property to the Estate
and Assess Statutory Damages Thereto Against Mary J. Quin**

DOD: 3-31-10		JOSEPH W. MARTIN , Administrator with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states he is an 86 year old man and is the duly appointed administrator of the estate. Petitioner is the decedent's spouse and intestate heir to the decedent's estate. The decedent is Petitioner's second wife and is unrelated to Mary Quin, Petitioner's daughter from his first wife.	Note: Related civil litigation 12CECG03130 Joseph W. Martin v. Mary J. Quin has upcoming hearing scheduled 4-3-14. See status report.
Cont. from 121813, 010614		After decedent's death, Petitioner requested that his daughter Mary Quin, a licensed California attorney, assist with the transfer of PG&E stock issued in the decedent's name. Quin held herself out as a qualified probate attorney and Petitioner trusted her to provide competent legal services and counsel after the death of his wife. Unknown to Petitioner, Quin prepared a revocable living trust, will, durable powers of attorney and related documents for Petitioner. Quin brought these documents to Petitioner on 4-24-10 and required him to sign documents that eventually appointed Quin as trustee and gave herself control over Petitioner's life savings, without Petitioner's consent and knowledge and with the intent to defraud and eventually embezzle and convert his life savings, as well as the decedent's assets.	Continued from 12-18-13, 1-6-14
<input type="checkbox"/>	Aff.Sub.Wit.	Petitioner states Quin obtained a Schwab Attorney-in-Fact Agreement and Affidavit of Attorney-in-Fact for Non-Schwab Power of Attorney for Theresa Martin's and Petitioner's Charles Schwab accounts and then converted, embezzled, and stole both IRA accounts, using the POA, to take the decedent's Schwab IRA, which was to go to Petitioner and as successor trustee, to gain control over Petitioner's Schwab IRA.	Minute Order 1-6-14: The Court is advised that the matter has been resolved and they are in the process of preparing an agreement.
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Petitioner states Quin replaced Petitioner's mailing address on the Schwab accounts to her law office address, and changed the phone number to her law office number. She never informed him that she had taken control of the accounts and had statements forwarded.	Status Report filed 3-4-14 by Attorney McCloskey (not verified by Administrator) states: The parties agreed to mediation in the civil action and a Petition to Approve Compromise of Pending Action is now pending in that Court, set for hearing on 4-23-14 in Dept. 403. It is the Administrator's intention to request dismissal of this Petition to Determine Title once the settlement of the other case is approved by Judge Culver Kapetan. The Administrator currently resides at an assisted living facility and has mobility issues that make it difficult to attend the hearing and asks that he be excused from attending this hearing.
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	Note: This information is provided by the Examiner for status purposes only: A status hearing in this estate is scheduled for 5-30-14 for the filing of the petition for final distribution. However, Examiner notes that a Final Inventory and Appraisal has not yet been filed.	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	Reviewed by: skc	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.	Reviewed on: 3-5-14	
<input checked="" type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen	Updates:	
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp	Recommendation:	
<input type="checkbox"/>	Objections X		
<input type="checkbox"/>	Video Receipt	File 3 – Martin	
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

SEE ADDITIONAL PAGES

Petitioner states that on 4-24-10, Quin required Petitioner to give Quin a blank check that the Decedent, Theresa Martin, had executed prior to date of death, drawn on an estate asset, the decedent's United Security Bank account. Quin required Petitioner to make the check payable to Quin's law offices. See Exhibit C. Quin advised Petitioner at the time that she would use this money in Decedent's bank account to obtain the PG&E stock for Petitioner that was held in the decedent's name.

Petitioner states Quin never attempted to obtain the PG&E stock, and, despite Quin's self-professed expertise in probate proceedings and estate planning, Quin never attempted to probate the estate.

Petitioner states Quin deposited the check in September 2010 to her law office account. Quin knew or should have known that decedent's checking account was an estate asset, and as such, her acceptance and negotiation of the check was illegal and improper, and that the estate, given the decedent also owned a single family residence, needed to be formally probated.

In January 2012, Petitioner contacted Charles Schwab by telephone to inquire about his life savings, the IRA accounts. Petitioner was informed that decedent's and his accounts had been depleted completely by Quin using the durable power of attorney.

At no time did Petitioner intentionally, knowingly or willingly gift and/or loan the assets that made up his life savings, the brokerage and IRA Rollover accounts at Charles Schwab to Quin.

In Feb. 2012, Petitioner first contacted his attorney, Babette Fischer, who made a demand on Quin to return the \$40,000, make an accounting, and return the money that she had embezzled and stole to the accounts. Fischer also terminated Quin's powers revoked in writing by Petitioner. See attached.

Petitioner filed a complaint with the California State Bar regarding Quin's conduct as an attorney, and has been informed that the State Bar is holding its investigation pending the outcome of civil litigation that Petitioner has initiated as well against Quin regarding her fraud and deceit.

Prior to her death, the decedent kept a separate property checking account at United Security Bank xxx049 that contained approx. \$40,000 prior to her death. On or about 9-1-10, Quin deposited the decedent's estate check from that account that Quin required Petitioner give her April 2010 into Quin's law office trust account. On 9-8-10, Quin converted that estate, asset to her own personal use.

Petitioner states Quin intentionally defrauded the Petitioner and the estate of that account and the Schwab accounts. Quin knew the estate should have been probated but that Quin could negotiate the blank check executed by the decedent prior to her death and then convert the money to her own use. Quin engaged the petitioner unwittingly in an illegal act, in presenting the check for negotiation after the decedent's death. Petitioner did not know that the law requires the account to be probated in some form under California law.

Petitioner states Quin took the estate account under the guise of assisting petitioner in acquiring the stock held by decedent.

SEE ADDITIONAL PAGES

Page 3

Petitioner and Quin have only seen each other sporadically in many years. The last time Quin and Petitioner met was on 4-24-10 when Quin defrauded Petitioner into executing a living trust naming Quin as trustee and allowing Quin to take his brokerage and IRA rollover accounts, and giving Quin the \$40,000 check. Quin, with malice and bad intent then concocted the gift and loan scheme to defraud her father of both his life savings as well as the decedent's.

Petitioner believes Quin's actions are malicious and outrageous requiring application of Probate Code §859.

Petitioner requests pursuant to Probate Code §850(a)(2)(D) that title to the above described money is vested in Petitioner as administrator of the estate. Petitioner further requests the Court find and hold Mary Quin as a constructive trustee of those funds and hold the proceeds of that account for the estate of Theresa Martin.

Petitioner further requests that the Court issue a citation pursuant to Probate Code §1240 for Mary J. Quin to appear and state why she cashed a \$40,000 check on Decedent's United Security Bank account more than five months after decedent's death and why she should not be required to reimburse decedent's estate.

Petitioner prays for an order as follows:

1. Quin be ordered to pay Petitioner as Administrator of the Estate of Theresa Martin the net proceeds of the above-described property; and
2. Quin be declared a constructive trustee of the proceeds of the above-described property for the benefit of the Estate of Theresa Martin; and
3. A citation be issued to Mary J. Quin to appear and state why she cashed a \$40,000 check on decedent's United Security Bank account more than 30 days after decedent's death; and
4. A finding that Quin in bad faith has taken, concealed, or disposed of the property by the use of undue influence in bad faith and through the commission of elder or dependent adult financial abuse, as defined in Section 15610.30 of the W&I Code, the property of the Estate of Theresa Martin, to wit: United Security Bank checking account No. xxx049 in the amount of \$40,000; and
5. A finding and order that Mary Quin is liable for twice the value of the property recovered by this action pursuant to Probate Code §859; and
6. An order that Quin pay Petitioner's costs and attorney fees herein; and
7. Such other remedies available in law or equity that the Court would deem just and proper.

Note: The proposed order does not appear to include the constructive trust or other findings. See proposed order.

Petitioner also filed Notice of Request for Court to Take Judicial Notice and Memorandum of Points and Authorities in Support Thereof, with reference to First Amended Complaint filed 2-5-13 in 12CECG03130.

Note: On 12-6-13, Respondent Mary J. Quin filed an ex parte request to continue the hearing from its originally scheduled date of 12-18-13. This Court's order filed 12-9-13 continued the matter to this date.

However, as of this date, it does not appear that any objection or response has yet been filed in this matter by Ms. Quin.

4A **Stephen & Debbra Winter Revocable Trust 2/16/94 Case No. 13CEPR00564**
Atty **Pape, Jeffrey B. (for Dennis Freeman – Successor Trustee under Amendment/Petitioner)**
Atty **Shahbazian, Steven L. (for Christopher Lull – son of Debbra Winter/Respondent-Objector)**
Petition to Determine Title to and Require Transfer of Property to Trust [Prob. C. 850(a)(2)(3), 855, 17200(b)(6)]

Stephan DOD: 08/09/05		DENNIS FREEMAN , successor trustee, is Petitioner. Petitioner states: 1. Stephan F. Winter and Debbra L. Winter ("Settlers") executed the Stephan F. Winter and Debbra L. Winter Revocable Trust (the "Trust") on 02/16/94 in their capacity as Settlers and initial Trustees. The Trust was amended on 09/14/02. 2. Petitioner is the currently acting successor trustee of the Trust. 3. This petition concerns the ownership of the original Trust documents which Christopher Lull ("Respondent") or his agents have taken possession of and refused to deliver to the trustee. 4. The Settlor's maintained the original trust documents in a binder. Shortly before her death, Debbra delivered the binder to real estate agent Michele Lane in connection with a real estate transaction. The real estate agent had possession of the binder when Debbra died and maintained possession of it, refusing to deliver it to anyone without a court order. Thereafter, Respondent's attorney, Sue Campbell, represented to Michele Lane that the family agreed that it was ok that Ms. Lane release the binder to Respondent in care of attorney Sue Campbell. 5. This was not acceptable to Petitioner because (1) Petitioner was the trustee and not respondent, and (2) Respondent, Debbra's son, had been intentionally omitted from the Trust due to a long standing estranged relationship. 6. Petitioner has demanded the release of the trust binder from Respondent's former attorney, Sue Campbell; however, initially Sue Campbell's assistant professed no knowledge of a binder being picked up by her office and later Sue Campbell professed no knowledge of a binder being picked up from Michele Lane. Petitioner's demands that Respondent deliver the binder to Petitioner's attorney have been ignored. Petitioner prays for an Order: 1. Declaring that Petitioner is the sole owner of the original trust documents and that Respondent has no interest in the original trust documents. 2. Directing Respondent to immediately deliver possession to Petitioner of any and all trust documents including but not limited to the original Trust, original Trust amendment, and the estate planning binder. <div style="text-align: right;">Continued on Page 2</div>	NEEDS/PROBLEMS/COMMENTS:	
Debbra DOD: 05/13/13			CONTINUED FROM 01/28/14	
			1. Need Order.	
Cont. from 081213, 102113, 112013, 120913, 010614, 012814				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail		w/	
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input checked="" type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order	x		
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Objection filed 08/07/13 by Christopher Lull, Respondent, states:

1. Petitioner does not have standing to bring this Petition. Petitioner is not the trustee because the amendment naming him as trustee was revoked. Morgan Quail witnessed the destruction of the amendment (see *Declaration of Morgan Quail*). Without the amendment, Petitioner is not the trustee or a beneficiary of the Trust and has no vested interest in the Trust.
2. Petitioner is not a relative or heir of Debbra L. Winter.
3. Michele Lane, the real estate agent described in the Petition, was in possession of the original estate planning binder at the time of Debbra Winter's death. Ms. Lane turned over the binder to Respondent because she found his name in the estate documents, and could not locate Petitioner's name in the binder. Because Ms. Lane could not find Petitioner's name in the documents and didn't know who he was, she refused to turn the binder over to him. Respondent's attorney has spoken to Ms. Lane and anticipates that she will be a witness in this matter. Ms. Lane stated to Respondent's attorney that Petitioner admitted to her that he never even met Debbra Winter. This information supports the fact that the amendment was destroyed and not in the original estate planning binder.
4. In the absence of the original, there is a legal presumption that the document was revoked. Additionally, pursuant to Probate Code § 6120(b), we have an act of destruction consistent with the intent to revoke. This presumption cannot be overcome based on the Declaration of Morgan Quail and the expected testimony of Michele Lane.
5. Respondent, Christopher Lull, is the successor trustee of the Trust dated 07/16/94 and the primary beneficiary. He had every right to withdraw the money from Bank of America, as Trustee.

Objector prays for an Order:

1. Denying the Petition to Determine Title to and Require Transfer of Property to Trust Regarding Bank Account; and
2. Denying the Petition to Determine Title to and Require Transfer of Property to Trust.

Declaration of Morgan Quail in Support of Objection filed 08/07/13 states:

1. He is Debbra Winter's nephew and probably one of her closest family members. Debbra felt like a bit of an outsider in their family and felt left out. Declarant always tried to include her in his life events and she always seemed grateful to be included.
2. Their family has a lot of drama. Declarant states that he has tried to stay out of it and remain neutral. He believes that this is why Debbra confided in him and spoke to him about things she might not talk about with others.
3. Approximately 2 years ago on Father's Day, Debbra pulled Declarant aside and asked to talk to him. During their conversation, she removed a document titled amendment to trust from her purse and proceeded to tear it up in front of him. She stated that she wanted to keep her money in the family. Declarant also believes she was having conversations with her sister Catherine and father Stanton about this issue as well.
4. At Christmastime later that year, Declarant received a card from Debbra thanking him for the talk on Father's Day.

Joint Status Report filed 12/18/13 provides an outline/summary of the petitions filed in this matter.

First Amended Objection to Petition to Determine Title to and Require Transfer of Property to Trust filed 01/07/14 states:

1. Objector, Christopher Lull, is the son of Debbra L. Winter, deceased, who is the co-settlor and the successor trustee of the STEPHAN F. WINTER and DEBBRA L. WINTER REVOCABLE TRUST (the "Trust") dated 02/16/94.
2. Decedent, Debbra Winter ("Debbra") and her husband Stephan F. Winter ("Stephan") created the Trust dated 02/16/94 in which they were both named as settlors and co-trustees. A purported Amendment to the Trust was executed on 09/14/02.
3. Under the terms of the Amendment, the successor trustee, upon the death of the first of Stephan and Debbra, was named as Dennis Freeman. Further, on the death of the surviving spouse/settlor, the estate was to be distributed to Dennis Freeman, if living, and if not, to Morgan Quail.

Continued on Page 3

4. The purported Amendment to the Trust was not a true and voluntary expression of testamentary intent of the co-settlor and co-trustee, Debbra Winter, but was a result of the control, demands, and undue influence of Stephan F. Winter, Debbra's spouse.
5. Stephan, taking advantage of the confidential and fiduciary relationship between him and his spouse, Debbra, and by reason of the trust and confidence so reposed in Stephan by Debbra, was able to and did influence and control the mind and actions of Debbra and induce her to sign the purported Amendment to the trust which provided, among other things, that all of the assets of the Trust be distributed upon the death of the surviving spouse to Dennis Freeman, who is unrelated to Debbra, and is a cousin of Stephan.
6. Prior to signing the Amendment, Stephan exhibited animosity and opposition to Objector, who is the only child and natural heir of Debbra, and attempted to, and did, alienate Debbra from Objector and induced her to sign the purported Amendment to the Trust excluding Objector as a beneficiary of the Trust, contrary to the terms of the initial Trust dated 02/16/94. As a result of the undue influence, pressure, and control by Stephan, and the alienation that he induced between Debbra and Objector, the Amendment dated 09/14/02, was not the true intent and testamentary wish of Debbra, but was that of her husband, Stephan.
7. After Stephan's death in 2005, Debbra stated her wish, and as so expressed to her family members, including her nephew, Morgan Quail, and her sister, Catherine Quail, that she did not intend to leave her estate, or any part of it, to Dennis Freeman; however, she was unaware of how and what manner to change the disposition and the purported Amendment to the Trust. Debbra was under the mistaken belief that the mere destruction of the Amendment, by tearing it up, resulted in the revocation of the Amendment and would therefore result in the original Trust agreement expressing her true intentions, which included her plan to bequeath and devise all of her trust assets to her direct heirs, including her son, Objector, Christopher Lull. Debbra was unable to do so at the time she signed the Amendment because she was wholly under the influence of Stephan, who proposed and dictated to Debbra the purported Amendment to the Trust. As a result, the Amendment was not the true and voluntary act of Debbra, but was procured as the result of the undue and unreasonable influence and control of Stephan and the mistaken belief thereafter of Debbra that she had taken appropriate actions to restore her true testamentary intent, as expressed in the initial Trust Agreement dated 02/16/94.

Objector, Christopher Lull prays for an Order:

1. Denying the Petition; determining that the purported Amendment to the Trust dated 09/14/02 is not the true testamentary intent of Debbra Winter; and that the terms and conditions of the trust are those set forth in the original testamentary instrument designated the "Trust Agreement" signed 02/16/94.

**Petition to Determine Title to and Require Transfer of Property to Trust Regarding
Bank Account [Prob. C. 850(a)(2)(3), 855, 17200(b)(6)]**

Stephan DOD: 08/09/05	DENNIS FREEMAN , successor trustee, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS: <u>Continued from 01/28/14</u>																																														
Debbra DOD: 05/13/13	Petitioner states:																																															
Cont. from 081213, 102113, 112013, 120913, 010614, 012814	<ol style="list-style-type: none"> 7. Stephan F. Winter and Debbra L. Winter ("Settlers") executed the Stephan F. Winter and Debbra L. Winter Revocable Trust (the "Trust") on 02/16/94 in their capacity as Settlers and initial Trustees. The Trust was amended on 09/14/02. 8. Petitioner is the currently acting successor trustee of the Trust. 9. This petition concerns the ownership of Bank of America account no. xxxx xxxx 3919 with a balance of over \$565,000 which was an asset of the Trust. 10. Petitioner is informed and believes that Respondent, Christopher Lull, presented Bank of America on or about June 26, 2013 the original 02/16/94 Trust without including the 09/14/02 amendment and wrongfully obtained the balance of the Bank of America Account. 																																															
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:50%;">Aff.Sub.Wit.</td><td style="width:50%;"></td></tr> <tr><td><input checked="" type="checkbox"/> Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td><input checked="" type="checkbox"/> Notice of Hrg</td><td></td></tr> <tr><td><input checked="" type="checkbox"/> Aff.Mail</td><td>w/</td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td><input checked="" type="checkbox"/> Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td><input checked="" type="checkbox"/> Order</td><td></td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		<input checked="" type="checkbox"/> Verified		Inventory		PTC		Not.Cred.		<input checked="" type="checkbox"/> Notice of Hrg		<input checked="" type="checkbox"/> Aff.Mail	w/	Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		<input checked="" type="checkbox"/> Objections		Video Receipt		CI Report		9202		<input checked="" type="checkbox"/> Order		Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice		Petitioner prays for an Order: <ol style="list-style-type: none"> 1. Declaring that Petitioner is the sole owner of the funds in Bank of America account no. xxxx xxxx 3919 and the sums wrongfully removed from said account and that Respondent has no interest in the account or the balance of the account; 2. Directing Respondent to immediately deliver the amounts removed from the account to Petitioner; 3. Directing Respondent to pay Petitioner's attorney's fees and costs; and 4. Awarding Petitioner with exemplary damages against Respondent according to proof. 	
Aff.Sub.Wit.																																																
<input checked="" type="checkbox"/> Verified																																																
Inventory																																																
PTC																																																
Not.Cred.																																																
<input checked="" type="checkbox"/> Notice of Hrg																																																
<input checked="" type="checkbox"/> Aff.Mail	w/																																															
Aff.Pub.																																																
Sp.Ntc.																																																
Pers.Serv.																																																
Conf. Screen																																																
Letters																																																
Duties/Supp																																																
<input checked="" type="checkbox"/> Objections																																																
Video Receipt																																																
CI Report																																																
9202																																																
<input checked="" type="checkbox"/> Order																																																
Aff. Posting																																																
Status Rpt																																																
UCCJEA																																																
Citation																																																
FTB Notice																																																
	Continued on Page 2	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>Reviewed by: JF</td></tr> <tr><td>Reviewed on: 03/05/14</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 4B – Winter</td></tr> </table>	Reviewed by: JF	Reviewed on: 03/05/14	Updates:	Recommendation:	File 4B – Winter																																									
Reviewed by: JF																																																
Reviewed on: 03/05/14																																																
Updates:																																																
Recommendation:																																																
File 4B – Winter																																																

Objection filed 08/07/13 by Christopher Lull, Respondent, states:

6. Petitioner does not have standing to bring this Petition. Petitioner is not the trustee because the amendment naming him as trustee was revoked. Morgan Quail witnessed the destruction of the amendment (see *Declaration of Morgan Quail*). Without the amendment, Petitioner is not the trustee or a beneficiary of the Trust and has no vested interest in the Trust.
7. Petitioner is not a relative or heir of Debbra L. Winter.
8. Michele Lane, the real estate agent described in the Petition, was in possession of the original estate planning binder at the time of Debbra Winter's death. Ms. Lane turned over the binder to Respondent because she found his name in the estate documents, and could not locate Petitioner's name in the binder. Because Ms. Lane could not find Petitioner's name in the documents and didn't know who he was, she refused to turn the binder over to him. Respondent's attorney has spoken to Ms. Lane and anticipates that she will be a witness in this matter. Ms. Lane stated to Respondent's attorney that Petitioner admitted to her that he never even met Debbra Winter. This information supports the fact that the amendment was destroyed and not in the original estate planning binder.
9. In the absence of the original, there is a legal presumption that the document was revoked. Additionally, pursuant to Probate Code § 6120(b), we have an act of destruction consistent with the intent to revoke. This presumption cannot be overcome based on the Declaration of Morgan Quail and the expected testimony of Michele Lane.
10. Respondent, Christopher Lull, is the successor trustee of the Trust dated 07/16/94 and the primary beneficiary. He had every right to withdraw the money from Bank of America, as Trustee.

Objector prays for an Order:

3. Denying the Petition to Determine Title to and Require Transfer of Property to Trust Regarding Bank Account; and
4. Denying the Petition to Determine Title to and Require Transfer of Property to Trust.

Declaration of Morgan Quail in Support of Objection filed 08/07/13 states:

5. He is Debbra Winter's nephew and probably one of her closest family members. Debbra felt like a bit of an outsider in their family and felt left out. Declarant always tried to include her in his life events and she always seemed grateful to be included.
6. Their family has a lot of drama. Declarant states that he has tried to stay out of it and remain neutral. He believes that this is why Debbra confided in him and spoke to him about things she might not talk about with others.
7. Approximately 2 years ago on Father's Day, Debbra pulled Declarant aside and asked to talk to him. During their conversation, she removed a document titled amendment to trust from her purse and proceeded to tear it up in front of him. She stated that she wanted to keep her money in the family. Declarant also believes she was having conversations with her sister Catherine and father Stanton about this issue as well.
8. At Christmastime later that year, Declarant received a card from Debbra thanking him for the talk on Father's Day.

4C
Atty
Atty

Stephen & Debbra Winter Revocable Trust

Case No. 13CEPR00564

Pape, Jeffrey B. (for Dennis Freeman – Successor Trustee under Amendment/Petitioner)

Shahbazian, Steven L. (for Christopher Lull – son of Debbra Winter/Respondent-Objector)

Notice of Hearing on Demurrer and Demurrer of Respondent Dennis Freeman to
Petition to Determine Validity of Purported Trust, for Order Determining Interest in
Trust Property and for Reformation; Memorandum of Points and Authorities in
Support of Demurrer to Petition Without Leave to Amend

Stephan DOD: 08/09/05		NEEDS/PROBLEMS/COMMENTS: Examiner Notes are not prepared for this matter.
Debbra DOD: 05/13/13		
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
<input type="checkbox"/>	Aff.Mail	
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	
<input type="checkbox"/>	Conf. Screen	
<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
Reviewed by: JF		
Reviewed on: 03/05/14		
Updates:		
Recommendation:		
File 4C – Winter		

4C

Stephen & Debbra Winter Revocable Trust Case No. 13CEPI
Pape, Jeffrey B. (for Dennis Freeman – Successor Trustee under Amendment/Petitioner)
Shahbazian, Steven L. (for Christopher Lull – son of Debbra Winter/Respondent-Objector)

Notice of Motion and Motion for Judgment on the Pleadings; Memorandum of Points and Authorities in Support Thereof; Declaration of Jeffrey B. Pape [CCP 438]

4D

**Petition to Determine Title to; Require Transfer to and Impose Constructive Trust
Over Property [Prob. C. 850(a)(2), (3), 855, 17200(b)(6)]**

Stephan DOD: 08/09/05		DENNIS FREEMAN , successor Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 01/28/14</u> 1. Need Order.	
Debbra DOD: 05/13/13				
Cont. from 120913, 010614, 012814		Petitioner states: 1. Stephan F. Winter and Debbra L. Winter ("Settlers") executed the Stephan F. Winter and Debbra L. Winter Revocable Trust (the "Trust") on 02/16/94 in their capacity as Settlers and initial Trustees. The Trust was amended on 09/14/02. 2. Stephan Winter died 08/09/05 and Debbra Winter died 05/13/13. Petitioner is the named successor trustee of the Trust. On 08/30/13, the Court appointed Bruce Bickel as temporary trustee of the Trust. 3. This Petition concerns the conversion of Bank of America account ending in 3919 with a balance of over \$565,000.00 which was an asset of the Trust. Petitioner alleges that Respondent, Christopher Lull, removed the entire balance of the Bank of America account on or about 06/26/13 and transferred it to his personal account. Petitioner alleges that, among other things, Christopher Lull used \$125,000.00 of the wrongfully obtained funds to pay down a promissory note and deed of trust on his personal residence. These funds were paid to First Northern Bank of Dixon, California on or about 01/27/13. 4. Constructive Trust. The real property which was subject to the promissory note and deed of trust that Christopher Lull applied \$125,000.00 in payment is located on Ophir Road in Auburn, CA (legal description provided).		
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input checked="" type="checkbox"/>	Response			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			x
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Petitioner prays for an Order: 1. Declaring that Respondent Christopher Lull holds in constructive trust the real property on Ophir Road in Auburn, CA, described in the Petition; 2. Authorizing the temporary trustee to take possession of and sell the real property described above to recover the \$125,000.00 plus attorneys' fees and costs in so doing; 3. Directing Respondent to pay Petitioner his attorneys' fees and costs; and 4. Awarding Petitioner with exemplary damages against Respondent according to proof.		

Continued on Page 2

Response to Petition to Determine Title To, Require Transfer to and Impose Constructive Trust Over Property filed 12/06/13 by Respondent, Christopher Lull, states:

1. Respondent admits that the STEPHAN F. WINTER AND DEBBRA L. WINTER REVOCABLE TRUST was created on 02/16/94 by Stephan and Debbra Winter.
2. Respondent denies that the Amendment dated 09/14/02 is a valid and effective trust document, or "Amendment" and that said Amendment does not reflect the true intent of the co-settlor and trustee, Debbra Winter.
3. Respondent denies the validity of the purported "Amendment" and, therefore, denies that Dennis Freeman is a successor trustee of the Trust.
4. Respondent denies that Fresno County is the proper venue for this action. And states that as successor trustee of the Trust the appropriate venue for this action should be in Sacramento County pursuant to Probate Code § 17002(b)(1).
5. Respondent admits that the Bank of America account described in the Petition was an asset of the Trust. Respondent denies that he has "wrongfully" taken or converted any sums from said account, or any other asset of the alleged trust, as said Amendment to the Trust is invalid and ineffective, and that the Trust, therefore, provides that Respondent is the sole successor trustee and beneficiary of the Trust.
6. Respondent admits that he has an interest in real property in Auburn, CA described in the Petition, but denies that there is any wrongful application of funds for any payment on that real property.

Affirmative Defenses:

1. The Petition fails to state facts sufficient to constitute a valid cause or causes of action against Respondent.
2. There is no basis for a "constructive trust" over the real property described in the Petition in that said real property is not, and was not, an asset of the Trust and thereby the remedy of "constructive trust" is not available under Civil Code §§ 2223 and 2224 as the Trust has not right, title, claim, or interest in the real property. (Citation provided)
3. The Petition has no ground to assert, nor is it alleged, that there is any basis for a claim of "exemplary damages".
4. The Petitioner fails to allege any statutory grounds, or any other legal right, for attorney's fees in the filing of this Petition and that attorney's fees are not recoverable to the Petitioner pursuant to Civil Code § 1021 and 1026.

Respondent prays for an Order:

1. That the Petition and each claim therein be dismissed against Respondent and that Petitioner take nothing by reason of his complaint; and
2. For costs incurred herein.

Stephan DOD: 08/09/05		The following petitions have been filed or are pending in this matter:	NEEDS/PROBLEMS/COMMENTS: Supplemental Joint Status Report filed 01/31/14 provides an outline/summary of the petitions filed in this matter.
Debbra DOD: 05/13/13			
Cont. from 010614, 012814		<ol style="list-style-type: none"> Petition to Determine Title To and Require Transfer of Property to Trust (Page 4A) Petition to Determine Title To and Require Transfer of Property to Trust re Bank Account (Page 4B) Notice of Hearing on Demurrer and Demurrer of Respondent Dennis Freeman to Petition to Determine Validity of Purported Trust, for Order Determining Interest in Trust Property and for Reformation; Memorandum of Points and Authorities in Support of Demurrer to Petition Without Leave to Amend (Page 4C- <u>Note to Judge</u>: Research attorney to provide memo) Notice of Motion and Motion for Judgment on the Pleadings (Page 4D) <u>Note to Judge</u>: See Research Attorney Memo Re Notice of Motion and Motion for Judgment on Pleadings Petition to Determine Title To; Require Transfer To and Impose Constructive Trust Over Property (Page 4E) Petition to Compel Christopher Lull to Redress Breach of Trust by Payment of Money or Otherwise and for Double Damages (Page 4G) Petition to Determine Validity of Purported Trust, for Order Determining Interest in Trust Property and for Reformation (filed by Respondent Christopher Lull, Page 4H; <u>Note to Judge</u>: Research attorney to provide memo – see memo re demurrer page 4C) Order to Show Cause Re Contempt filed by Dennis Freeman – Page 4I) Notice of Motion for Order Compelling Responses to Form Interrogatories (filed by Dennis Freeman and set for hearing on 04/08/14) 	Reviewed by: JF Reviewed on: 03/05/14 Updates: Recommendation: File 4F – Winter
<input type="checkbox"/> Aff.Sub.Wit.	<input type="checkbox"/>		
<input type="checkbox"/> Verified	<input type="checkbox"/>		
<input type="checkbox"/> Inventory	<input type="checkbox"/>		
<input type="checkbox"/> PTC	<input type="checkbox"/>		
<input type="checkbox"/> Not.Cred.	<input type="checkbox"/>		
<input type="checkbox"/> Notice of Hrg	<input type="checkbox"/>		
<input type="checkbox"/> Aff.Mail	<input type="checkbox"/>		
<input type="checkbox"/> Aff.Pub.	<input type="checkbox"/>		
<input type="checkbox"/> Sp.Ntc.	<input type="checkbox"/>		
<input type="checkbox"/> Pers.Serv.	<input type="checkbox"/>		
<input type="checkbox"/> Conf. Screen	<input type="checkbox"/>		
<input type="checkbox"/> Letters	<input type="checkbox"/>		
<input type="checkbox"/> Duties/Supp	<input type="checkbox"/>		
<input type="checkbox"/> Objections	<input type="checkbox"/>		
<input type="checkbox"/> Video Receipt	<input type="checkbox"/>		
<input type="checkbox"/> CI Report	<input type="checkbox"/>		
<input type="checkbox"/> 9202	<input type="checkbox"/>		
<input type="checkbox"/> Order	<input type="checkbox"/>		
<input type="checkbox"/> Aff. Posting	<input type="checkbox"/>		
<input type="checkbox"/> Status Rpt	<input type="checkbox"/>		
<input type="checkbox"/> UCCJEA	<input type="checkbox"/>		
<input type="checkbox"/> Citation	<input type="checkbox"/>		
<input type="checkbox"/> FTB Notice	<input type="checkbox"/>		

Atty Pape, Jeffrey B. (for Dennis Freeman – Successor Trustee – Petitioner)

Atty Shahbazian, Steven L. (for Christopher Lull – Respondent and Objector)

**Petition to Compel Christopher Lull to Redress Breach of Trust by Payment of
Money or Otherwise and for Double Damages**

Stephen Winter DOD: 8-9-05		DENNIS FREEMAN , Successor Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 01/28/14</u> 1. Need order.
Debbra Winter DOD: 5-13-13			
Cont. from 012814		<p>Petitioner states: Petitioner Dennis Freeman is the sole beneficiary and named successor trustee of the trust pursuant to the 9-14-02 amendment. However, Respondent CHRISTOPHER LULL, with full knowledge of said trust amendment, wrongfully exercised powers under the trust instrument as the purported trustee as described below. On 8-30-13, the Court appointed BRUCE BICKEL as temporary trustee pending resolution of these matters.</p> <p>Petitioner states Respondent wrongfully procured Bank of America account xx3919 with a balance of over \$565,000, which was an asset of the trust, removed the entire balance on or about 6-26-13, and transferred it to a new trust account at Bank of America naming himself as trustee, without including the 9-14-02 amendment for the bank, in furtherance of his scheme. Petitioner states Respondent then transferred the money belonging to the trust to a personal bank accounts at Bank of America, Chase Bank, and/or business accounts at First Northern Bank of Dixon, California and paid a number of personal debts and/or non-trust related expenditures all to benefit himself. See list provided in petition.</p> <p>Petitioner states on or about 8-8-13, this Court ordered Respondent to preserve the assets of the trust. On 10-15-13, Respondent testified that all of the trust assets have been spent, based on his name is the only one in the trust. Petitioner states that as of 8-8-13, Respondent still had at least \$377,500 of trust funds on deposit in his personal and business accounts. These sums were still trust assets despite his efforts to conceal these monies. This was an egregious and intentional violation of the Court's order and was done for the sole purpose of defeating the recovery of the trust assets from him.</p>	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		W
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		X
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCC/JEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		SEE ADDITIONAL PAGES	
		Reviewed by: skc/JF Reviewed on: 03/05/14 Updates: Recommendation: File 4G - Winter	

Petitioner states Respondent was ordered on 8-30-13 to provide an accounting of the expenditure of the trust funds by him. He has refused and continues to refuse to do so consistent with his efforts to abscond with the trust funds.

Petitioner prays for an order as follows:

- 1. Ordering Christopher Lull to redress the breaches of trust described above by payment of all sums wrongfully misappropriated from the trust and reimbursing the trust for all losses occasioned by his wrongful actions;**
 - 2. Surcharging Christopher Lull twice the value of the property wrongfully misappropriated from the trust according to proof pursuant to Probate Code §859;**
 - 3. For attorneys' fees;**
 - 4. For costs herein;**
 - 5. For such orders as the Court deems necessary and proper.**
-

Response and Objection filed 1-17-14 by Christopher Lull states:

Respondent denies that Petitioner is the successor trustee of the trust and denies that he "wrongfully exercised" the powers under the trust instrument identified as the "Winter Trust dated February 16, 1994." Respondent is the rightful successor trustee of said trust.

Respondent further denies that Fresno County is the appropriate venue for this proceeding and that the appropriate venue is the County of Placer.

Respondent denies that he has wrongfully procured any funds from the trust and that under the terms of the trust he is the rightful successor trustee and beneficiary. Further the allegations in Paragraph 6 are defective and should be stricken as material matters alleged on hearsay information not within Petitioner's personal knowledge. Authority provided.

Respondent denies he has "wrongfully" taken or "absconded" with assets of the trust and alleges that he is the successor trustee and beneficiary. Further, any said claims of violation of the trust, or wrongful misappropriation of trust funds pursuant to §850(a)(3) are insufficient and premature. Objection and a request to strike is hereby made to the recitation of testimony at a prior hearing by the respondent as the Court has made no final judgment or order in these matters; therefore, such testimony should not be considered by the Court, or receive judicial notice under Evidence Code §452, as such testimony is not an order, finding of fact or judgment of the court. Authority provided.

Respondent alleges there are not sufficient grounds for "surcharging" the responding party herein for "double damages" as there has not been any "bad faith" wrongful taking by this responding party.

Respondent further objects to any claim for "attorney's fees." There are no grounds alleged to claim same and this action is subject to the provisions of Civil Code §1021.

Respondent prays that the petition to "redress breach of trust" be dismissed; that none of the relief as requested therein be granted; for costs of suit incurred.

4H Stephen & Debbra Winter Revocable Trust

Case No. 13CEPR00564

Atty Pape, Jeffrey B. (for Dennis Freeman – Respondent to this Petition)

Atty Shahbazian, Steven L. (for Christopher Lull – Petitioner)

Petition to Determine Validity of Purported Trust, for Order Determining Interest in
Trust Property and for Reformation

Stephan DOD: 08/09/05		NEEDS/PROBLEMS/COMMENTS: Examiner Notes are not prepared for this matter.
Debbra DOD: 05/13/13		
Cont. from 012814		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
<input type="checkbox"/>	Aff.Mail	
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	
<input type="checkbox"/>	Conf. Screen	
<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
Reviewed by: JF		
Reviewed on: 03/05/14		
Updates:		
Recommendation:		
File 4H – Winter		

4H

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 10/23/2013		DEBRA L. HALL , daughter, is petitioner. 40 days since DOD. No other proceedings. Will dated 1/5/10 devises entire estate to Debra L. Hall. I & A - \$70,000.00 Petitioner requests court determination that Decedent's interest in real property pass to her pursuant to Decedent's Will.	NEEDS/PROBLEMS/COMMENTS: Continued from 2/10/14. Minute order states Ms. Edwards [Georgie Edwards, daughter] who is appearing via CourtCall objects to the petition. Ms. Edwards is directed to lodge her written objections with the court. As of 3/4/14 written objections have not been filed.				
Cont. from 012714, 021014							
<input type="checkbox"/>	Aff.Sub.Wit.						
<input checked="" type="checkbox"/>	Verified						
<input type="checkbox"/>	Inventory						
<input type="checkbox"/>	PTC						
<input type="checkbox"/>	Not.Cred.						
<input checked="" type="checkbox"/>	Notice of Hrg						
<input checked="" type="checkbox"/>	Aff.Mail			W/			
<input type="checkbox"/>	Aff.Pub.						
<input type="checkbox"/>	Sp.Ntc.						
<input type="checkbox"/>	Pers.Serv.						
<input type="checkbox"/>	Conf. Screen						
<input type="checkbox"/>	Letters						
<input type="checkbox"/>	Duties/Supp						
<input type="checkbox"/>	Objections						
<input type="checkbox"/>	Video Receipt						
<input type="checkbox"/>	CI Report						
<input type="checkbox"/>	9202						
<input checked="" type="checkbox"/>	Order						
<input type="checkbox"/>	Aff. Posting						
<input type="checkbox"/>	Status Rpt						
<input type="checkbox"/>	UCCJEA						
<input type="checkbox"/>	Citation						
<input type="checkbox"/>	FTB Notice						
<table border="1"> <tr><td>Reviewed by: KT</td></tr> <tr><td>Reviewed on: 3/5/14</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 5 – Hall</td></tr> </table>			Reviewed by: KT	Reviewed on: 3/5/14	Updates:	Recommendation:	File 5 – Hall
Reviewed by: KT							
Reviewed on: 3/5/14							
Updates:							
Recommendation:							
File 5 – Hall							

**Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob.
C. 8002, 10450)**

DOD: 01/03/2014		GARY STEFFENSEN , son is the petitioner and requests appointment as Administrator without bond.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner is a resident of Covington, Washington	<p>1. Proposed personal representative is a resident of Washington. Probate Code 8571 states notwithstanding a waiver of bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court.</p> <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 08/15/2014 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 05/15/2015 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from		Decedent died intestate	
<input type="checkbox"/>	Aff.Sub.Wit.	Residence: Fresno	
<input checked="" type="checkbox"/>	Verified	Publication: The Business Journal	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Estimated value of the Estate:	
<input checked="" type="checkbox"/>	Aff.Mail	Personal property \$40,000.00	
		Real property \$245,000.00	
		Total: \$285,000.00	
<input checked="" type="checkbox"/>	Aff.Pub.	Probate Referee: Rick Smith	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LV
			Reviewed on: 03/06/2014
			Updates:
			Recommendation:
			File 6 – Steffensen

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution

DOD: 06/03/2003	DALE ALLEN CRUTCHFIELD , son, was appointed Executor with full IAEA without bond on 08/26/2003.	NEEDS/PROBLEMS/COMMENTS:
	Letters issued on 08/26/2003.	
	Inventory and Appraisal was filed on 02/03/2004 shows an estate valued at \$309,517.57 consisting of real property.	
Cont. from 011014	Notice of Status Hearing was mailed to John Garland and Dale Allen Crutchfield on 11/07/2013.	
Aff.Sub.Wit.	<p>Status Report filed 03/06/2014 states on 01/07/2014 Counsel met with the Executor and Ernest Crutchfield regarding the Probate Status Hearing. The Executor advised counsel that he has not lived at the decedent's residence since May 2008 and that he did not receive the Notice of Status Hearing. When counsel asked the Executor if he received counsels previous letters regarding the estate, the Executor acknowledged receipt of counsel's letters prior to May 2008 and stated that he had "no good reason" for failing to respond. The Executor advised counsel that he was "overwhelmed" with the responsibilities of managing the family business, Crutchfield Pest Control, during a very difficult business financial climate and the additional responsibilities of the Executor of his mother's estate. Both the Executor and Ernest advised counsel that business has improved somewhat, and the Executor, with the assistance of Ernest is now prepared to close their mother's estate.</p> <p>The Executor advised counsel that he believes he has most of the estate records stored in his garage and will attempt to locate same prior to the Status Hearing and advise counsel of the results of the search. Both Dale Allen Crutchfield and Ernest Douglas Crutchfield were present with Counsel at the probate hearing on 01/10/2014. The Executor advised counsel that he had not located the estate records as of that date.</p>	
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
<u>Continued on the next page</u>		
		Reviewed by: LV Reviewed on: 03/05/2014 Updates: Recommendation: File 7 – Crutchfield

On 01/10/2014 the Court continued the Probate Status Hearing to 03/10/2014. Since 01/10/2014 the Executor has searched his garage and his business premises for the estate records and has been successful in locating some of the records, but not all of them. The Executor advised counsel that he delivered some of the estate records, including the estate bank records, to his brother Ernest Crutchfield approximately five years ago. Ernest Crutchfield acknowledges that he received some estate records from the Executor several years ago, but he has not been able to locate same to date. As of this date, both the Executor and Ernest Crutchfield have advised counsel that they are continuing to search for additional estate records. Counsel will provide the Court with an update on the results of the search for estate records by the Executor and Ernest Crutchfield at 03/10/2014 Probate Status Hearing.

Counsel has reviewed the estate records the Executor has located to date, and it is clear that additional documents must be located and reviewed in order to determine what actions must be taken to settle the estate and bring it to a conclusion. The previously prepared Petition for Final Distribution on Waiver of Accounting can be updated after counsel receives and reviews the necessary estate records. If the necessary records are located prior to, or soon after 03/10/2014 Status Hearing, said petition should be completed and filed within approximately 6 weeks.

Petition for Visitation

Age: 15		NATALIE RIVAS , mother, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Visitation for: <ul style="list-style-type: none"> Sandra Romero (Guardian) Jesus J. Rosales (Father)
		SANDRA ROMERO , maternal grandmother was appointed guardian on 11/15/1999.	
Cont. from		Father: JESUS J. ROSALES	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input type="checkbox"/>	Aff.Mail	X	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petitioner states: the child has been in the guardian's care for nearly 15 years. Visitation started out as open but gradually decreased to once a week, two hour visits in the guardian's home. Guardianship was granted based on the mother's physical disability. It was seen by the guardian that the mother's physical disability would make it difficult to care for the child. Petitioner states that the child can bathe, dress, feed and cook for herself therefore she is no longer dependent on an adult for those needs. The child expressed to the petitioner/mother that she wishes to reside with her. Petitioner stated that she thought it best to begin with petitioning the court for visitation so that it is less drastic for all involved. Petitioner asks the Court to grant her visitation outside of the guardian's home. She feels that it is time to build a bond with her daughter without the influence of the guardian.

Petitioner requests the following visitation schedule:
 Every 2nd and 4th weekend of each month commencing Friday at 5pm through Sunday at 5pm. Holidays to be shared. One week of Christmas break. Four hours of the child's birthday. Any other holidays or no school day to be shared within reason.

Current Order pursuant to Minute Order of 07/26/2010:
 The Court Orders supervised visits for Natalie Rivas at the guardian's home as based on mutual agreement by the parties.

Reviewed by: LV

Reviewed on: 03/07/2014

Updates:

Recommendation:

File 8 – Rivas

9 Ariel Rose Bermudez (GUARD/P)
Atty Thiessen, Margarita (pro per - paternal grandmother/Petitioner)
Atty Thiessen, Curtis (pro per - paternal step-grandfather/Petitioner)

Case No. 14CEPR00013

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 4		<u>TEMPORARY EXPIRES 03/10/14</u>		NEEDS/PROBLEMS/COMMENTS:	
		MARGARITA THIESSEN and CURTIS THIESSEN, paternal grandmother and step-grandfather, is Petitioner.		<p>1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:</p> <ul style="list-style-type: none"> Juan Bermudez (Father) Mary DeVaney (Mother) <p>2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:</p> <ul style="list-style-type: none"> Robert Gonzalez (Paternal Grandfather) Margaret DeVaney (Maternal Grandmother) Rosalina Casso (Sibling) 	
Cont. from		Father: JUAN BERMUDEZ			
Aff.Sub.Wit.		Mother: MARY DEVANEY, Objection filed 01/15/2014			
<input checked="" type="checkbox"/>	Verified				
	Inventory	Paternal grandfather: ROBERTO GONZALEZ			
	PTC	Maternal grandfather: DECEASED			
	Not.Cred.	Maternal grandmother: MARGARET DEVANEY			
	Notice of Hrg	<input checked="" type="checkbox"/>	Sibling: ROSALINA CASSO (13)		
	Aff.Mail	<input checked="" type="checkbox"/>			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>	Conf. Screen		Petitioners allege that the mother is verbally abusive and mentally unstable. She is threatening to return to New Jersey without having any support or any place to live there. She moved to California because no one in New Jersey would help her. Petitioners do not want the minor to be homeless. Petitioners state that the child has resided with them since the child was born.		
<input checked="" type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input checked="" type="checkbox"/>	Objections		Objection to guardianship filed 01/15/14 by mother, Mary DeVaney states: she objects to the guardianship and has many concerns about the Petitioners. Ms. DeVaney alleges that Curtis grows and sells marijuana and they were victims of a home invasion in October 2013. Objector feels that the minor's safety is at risk in the Petitioner's home. Further, she alleges that Petitioners spoil Ariel and give her anything she wants, which has made it very difficult for her to parent. Ms. DeVaney also alleges that Petitioners are verbally abusive to her and her older daughter, Rosalina, so much so that Rosalina suffered a panic attack due to the stress. Ms. DeVaney alleges that the Petitioners are prone to violent outbursts and throwing things. She does not feel that Petitioners would be good guardians to the minor. She states that she is not a perfect mother, but that she is a good mother and loves her children and wants what is best for them.		
	Video Receipt				
<input checked="" type="checkbox"/>	CI Report				
	9202				
<input checked="" type="checkbox"/>	Order				
	Aff. Posting				
	Status Rpt				
<input checked="" type="checkbox"/>	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: LV	
				Reviewed on: 03/05/2014	
				Updates:	
				Recommendation:	
				File 9 – Bermudez	

Declaration of the mother, Mary DeVaney filed 01/24/2014 includes a statement that she is fighting to regain custody of her child and believes that her rights as an American are being violated. She states that prior to this guardianship the father had been trying to get custody of the child but the mother was awarded sole legal custody. She states that she respects the petitioners and appreciates all that they have done for her and the child however she believes she should have the opportunity to care for her child.

Also attached are character letters written on her behalf, as well as a notice to move from Petitioner Curtis Thiessen, and a rent receipt.

Declaration of Petitioner, Curtis Thiessen, filed 02/18/2014 includes a statement from Mr. Thiessen which states that the mother bribed his daughter-in-law to write a letter in the mother's favor by paying her in food stamps. He states his son and daughter-in-law have not allowed him and his wife to see their grandchildren and it is because of the Mary DeVaney. Mr. Thiessen reiterates that the mother's plan is to move back to New Jersey and does not have a support system there.

Also included is a drawing of a swastika that was drawn by the mother and the mother's eldest daughter.

Court Investigator Dina Calvillo's report filed 03/05/2014.

Age: 2		<u>NO TEMPORARY IN PLACE</u>		NEEDS/PROBLEMS/COMMENTS:	
		DENISE VALENZUELA , maternal great-aunt, is Petitioner.		1. If diligence is not found, need proof of service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Guardianship <u>or</u> Consent & Waiver of Notice for:	
		Father: JOSE MIRANDA – Declaration of Due Diligence filed 01/15/14		- Jose Miranda (father) – personal service required	
Cont. from		Mother: DESTINY ANGEL – Consent & Waiver of Notice filed 01/15/14		- Paternal grandparents – service by mail is sufficient	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
		Paternal grandparents: UNKNOWN – Declarations of Due Diligence filed 01/15/14			
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 03/05/14	
				Updates:	
				Recommendation:	
				File 10 – Miranda	

Atty Widdis, Lawrence A.; Widdis, Laura, of Widdis & Widdis, Glendale (for Petitioner Carol J. Wertheim)

Atty Fanucchi, Edward L., of Quinlan Kershaw & Fanucchi (Court-appointed for Conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 92 years		<p>CAROL J. WERTHEIM, daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications; and of the Estate with bond set at \$255,700.00.</p> <p>Estimated Value of the Estate:</p> <table> <tr> <td>Personal property</td> <td>-</td> <td>\$250,000.00</td> </tr> <tr> <td>Annual income</td> <td>-</td> <td>\$ 5,700.00</td> </tr> <tr> <td>Total</td> <td>-</td> <td>\$255,700.00</td> </tr> </table> <p>Capacity Declaration of Jeffrey Mar, Ph.D., filed 6/3/2013 supports request for dementia powers and medical consent powers.</p> <p>Voting Rights NOT Affected</p> <p>Petitioner states the proposed Conservatee has atypical dementia with exaggeration of longstanding domineering and controlling personality tendencies that have become inappropriate, and at times, abusive to those around him, particularly his spouse [LAVERNE YOUNGBERG]. Petitioner states the proposed Conservatee has lost much of his cognitive and functional abilities, lacks judgment and is paranoid, and he is unable to provide for his medical care, food, clothing or shelter. Petitioner states proposed Conservatee has been housed in, and needs to continue to reside in, an assisted living caretaking environment.</p> <p>Court Investigator Jo Ann Morris' Report was filed on 6/7/2013.</p> <p>~Please see additional page~</p>	Personal property	-	\$250,000.00	Annual income	-	\$ 5,700.00	Total	-	\$255,700.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>This matter will be heard at 10:30 a.m.</p> <p>Court Investigator Advised Rights on 6/5/2013.</p> <p>Continued from 12/10/2013. Please see First Additional Page for contents of Minute Order dated 12/10/2013.</p> <ol style="list-style-type: none"> 1. Need Status Report prior to the hearing, per Minute Order dated 12/10/2013. 2. If Court grants Conservatorship of the Estate, bond is required pursuant to Probate Code § 2320 and CA Rule of Court 7.207. <p>Note: If Petition is granted for Conservatorship of the <u>Estate</u>, Court will set status hearings as follows:</p> <ul style="list-style-type: none"> • Friday, April 18, 2014 at 9:00 a.m. in Dept. 303 for filing proof of bond; • Friday, July 18, 2014 at 9:00 a.m. in Dept. 303 for filing of inventory and appraisal; and • Friday, May 15, 2015 at 9:00 a.m. in Dept. 303 for filing of first account of the conservatorship. <p>Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.</p> <p>~Please see additional page~</p>
Personal property	-		\$250,000.00									
Annual income	-		\$ 5,700.00									
Total	-		\$255,700.00									
Cont. from 062013, 072513, 102513, 120613												
<input type="checkbox"/>	Aff.Sub.Wit.											
<input checked="" type="checkbox"/>	Verified											
<input type="checkbox"/>	Inventory											
<input type="checkbox"/>	PTC											
<input type="checkbox"/>	Not.Cred.											
<input checked="" type="checkbox"/>	Notice of Hrg											
<input checked="" type="checkbox"/>	Aff.Mail		W									
<input type="checkbox"/>	Aff.Pub.											
<input type="checkbox"/>	Sp.Ntc.											
<input checked="" type="checkbox"/>	Pers.Serv.		W									
<input checked="" type="checkbox"/>	Conf. Screen											
<input checked="" type="checkbox"/>	Cap. Dec.											
<input checked="" type="checkbox"/>	Duties/S											
<input type="checkbox"/>	Objections											
<input checked="" type="checkbox"/>	Video Receipt											
<input checked="" type="checkbox"/>	CI Report											
<input type="checkbox"/>	9202											
<input checked="" type="checkbox"/>	Order											
<input checked="" type="checkbox"/>	Letters											
<input type="checkbox"/>	Status Rpt											
<input type="checkbox"/>	UCCJEA											
<input checked="" type="checkbox"/>	Citation											
<input type="checkbox"/>	FTB Notice											

Minute Order dated 12/10/2013 from the hearing on the Petition for Appointment of Probate Conservator of the Person and Estate states in pertinent part as follows:

- The Court orders that the landline be established and the number be provided to the family. Dan Fry is directed to expedite the installation of the landline.
- All prior agreements regarding telephone contact to remain as previously set with the exception that Ms. Youngberg will not be coordinating the calls. Both counsel to work out any changes regarding telephone calls.
- Mr. Youngberg is directed to follow through with his examination for a hearing aid. Dan Fry is directed to confirm and expedite the appointment.
- The Court orders that Mr. Youngberg submit to an examination by Dr. Mar. In the event that Dr. Mar is no longer practicing, both counsel are to agree upon another doctor. If counsel is unable to agree, the Court will make that determination upon an order shortening time.
- The Court orders that any further competency exam be at the expense of the proposed Conservatee's estate.
- Parties waive confidentiality for the purpose of allowing the Court to obtain information and/or report from the doctor.
- Any orders previously made regarding special powers is withdrawn by the Court.
- Matter is continued to 3/10/2014. Counsel is directed to submit a status report before the next hearing.

Psychological Evaluation [by] Jeffrey Mar, Ph.D., Re Examination of Proposed Conservatee, Ellard V. Youngberg, January 26, 2014 was filed by Attorney Fanucchi on 3/7/2014 [confidential].

Declaration Regarding A Report from Dr. Jeffrey Mar filed by Attorney Lawrence Widdis on 3/7/2014 states:

- He declares that, unfortunately, D. Mar concluded after he agreed to reevaluate Ellard Youngberg and after the Petitioner paid him that: "it is beyond the scope of this evaluation to assess his (Ellard's) competency regarding other matters, such as his ability to make financial, medical, placement, or other daily living decisions on his own behalf." (Page 1, last sentence of "Reason for Referral;"
- Further, Dr. Mar did not complete the *Capacity Declaration* from given him by his (Attorney Widdis') office;
- Via email on 3/5/2014 at 8:02 a.m., he supplied Edward L. Fanucchi, Attorney for Ellard, a copy of Dr. Mar's report;
- At the hearing on Monday, March 10th, the Petitioner will ask the Court for permission to hire another doctor to evaluate her father.

IME Report of Howard B. Terrell, M.D., Psychiatrist RE Examination of Proposed Conservatee, Ellard V. Youngberg, October 23, 2013 was filed on 11/13/2013.

~Please see additional page~

Notes for background:

- **Minute Order dated 10/25/2013** states in pertinent part: Dan Fry was present on 7/25/2013 and he is not present here today. Mr. and Mrs. Youngberg were directed to be present today and they are not. A representation has been made to the Court that the terms of the mediation agreement have not been adhered to, specifically the installation of the telephone; on 7/25/2013, Mr. Fanucchi was ordered to set up an appointment to have Ellard Youngberg examined, which did not take place until 10/23/2013. The Court appoints Carol Wertheim as temporary conservator of the person with limited powers to facilitate visits as deemed appropriate, ensure the installation of the telephone, look into a hearing device, and to take such actions as deemed necessary to facilitate communication with the staff at the facility regarding meals etc. The temporary conservator shall be limited to these powers until further order of the Court. This temporary conservatorship does not authorize the execution of documents or any estate planning on behalf of Ellard Youngberg. The Court indicates to the parties that it is issuing this temporary conservatorship based on what is believed to be in the best interest of Ellard Youngberg, and based on the voluntary mediation agreement that was not followed. Mr. and Mrs. Youngberg are ordered to be present at the next hearing [on 12/10/2013].
- **Minute Order dated 7/25/2013** states the Court informs Mr. Gromis and Mr. Fanucchi to update the estate planning documents appropriately. Mr. Fanucchi is ordered to set up an appointment for another examination for Mr. Youngberg. The Court would like Mr. and Mrs. Youngberg present at the next hearing. Parties agree to meet for mediation today at 1:30 p.m.
- **Minute Order dated 6/20/2013** states Ms. Widdis and Mr. [Jason] Wertheim are appearing via Courtcall. The Court indicates to the parties that per the investigative report, it appears that a conservatorship is not necessary. The Court directs Mr. Gromis to provide copies of the estate planning and other documents to Mr. Widdis.

Second Supplement to Petition Re: (1) Additional Capacity Declaration; (2) Declaration Re: Conservation with Grandfather on 9/21/2013; (a) Isolation at meals; (b) Excluded from Family Gatherings; (c) Medium/Long Term Memory Issues; (d) Misunderstanding of Surgical Risks; (e) Signing of Estate Planning Documents; (f) Do Not Resuscitate Order Not Accurate; (g) Specific Mental Ability Findings filed by CAROL WERTHEIM on 10/18/2013 states, in brief sum:

- At the hearing on 7/25/2013, the Court ordered the proposed Conservatee be reexamined by a medical professional and, since Petitioner and her attorney do not know any doctors in the Fresno area, the court-appointed counsel Edward L. Fanucchi was to arrange for the examination;
- At the second medication on 9/20/2013, it was agreed by all those present that the Youngberg family doctor, Dr. Rubio, not be the examiner;
- To date and to the best knowledge of Petitioner and her attorney, **no** additional examination of Mr. Youngberg has been completed *[emphasis in original]*;
- Attached as *Exhibit A* is a *Capacity Declaration* completed by **JASON WERTHEIM, M.D., Ph.D.**, who is a licensed physician in the State of Illinois; *Exhibit B* is a declaration by Dr. Wertheim discussing proposed Conservatee's condition in detail; *Exhibit C* is Dr. Wertheim's curriculum vitae;
- Petitioner alleges that the conclusions of her son, Dr. Wertheim, mirror those of **JEFFREY MAR, M.D., Ph.D.**, as stated in the *Capacity Declaration* filed 6/3/2013 by him, and the 6/9/2012 handwritten evaluation of the proposed Conservatee by Dr. Mar attached as *Exhibit D*;

~Please see additional page~

Second Supplement to Petition filed by CAROL WERTHEIM on 10/18/2013, continued:

- Attached as *Exhibit E* is an Advanced Health Care Directive purportedly signed by Mr. Youngberg on 9/3/2013 and notarized by Attorney David Paul Gromis;
- Attached as *Exhibit F* is a HIPPA Authorization for Release of Protected Health Information, offered, signed and notarized through the law office of Mr. Gromis dated 9/3/2013;
- Petitioner states it at the least an inappropriate time for her father to be signing any estate planning documents or HIPPA release forms while the conservatorship matter is pending, especially because Petitioner doubts preparation of said documents was her father's idea;
- **Therefore, Petitioner asks the Court to prohibit any person from offering Mr. Youngberg estate planning documents until this matter is decided** *[emphasis added]*;
- Attached as *Exhibit G* is a copy of the Mediation Agreement signed by court-appointed attorney Edward L. Fanucchi, Dr. Jason Wertheim, Petitioner Carol Wertheim, and Dan Fry, son of Mrs. Youngberg, on 9/20/2013;
- Petitioner requests that the Court review the second agreement listed on page 1 of the Mediation Agreement (*Exhibit G*) which discusses phone service in Mr. Youngberg's room and who is responsible for ordering service – Mr. Fry; to date **no** phone has been installed *[emphasis in original]*; Petitioner states this is further proof of the isolation of Mr. Youngberg by Mrs. Youngberg's family and their unwillingness to comply with voluntary agreements;
- Petitioner requests that the Court review page 3 of the Mediation Agreement (*Exhibit G*) which states the parties agreed on 9/20/13 that through the use of Mrs. Youngberg's cell phone, Mr. Youngberg would be available for phone calls from Petitioner and Dr. Wertheim on the first and third Sunday of the month between 3 and 4 p.m. or as mutually agreed; Attached as *Exhibit H* is an email from Dr. Wertheim stating he couldn't talk to his grandfather on the first Sunday he was supposed to be available through Mrs. Youngberg's cell phone;
- Petitioner states this is further proof of the isolation of Mr. Youngberg and the unwillingness to comply with voluntary agreements.

Petitioner Carol Wertheim asks that the Court approve her petition at this hearing since there is substantial evidence that Mr. Youngberg needs a conservator, that he is being pressured to sign estate planning documents, that he does not understand and therefore cannot agree to surgery, and that he is being isolated from his daughter and grandson.

~Please see additional page~

Status Report and Recommendations of Court-Appointed Counsel filed by Edward L. Fanucchi on 6/19/2013 states:

- He met for almost 3 hours with the proposed Conservatee, his wife Laverne Youngberg, and his daughter, Carol Wertheim, at Sierra View Homes in Reedley, where the elder Youngbergs reside in separate apartments, and they are with each other on a daily basis; he invited the daughter to attend so he could get an understanding of the forces within the family that have caused the filing of this *Petition* by the daughter;
- The interval history within 12 months indicates a mistrust by Mrs. Youngberg of the motives of Ms. Wertheim; Ms. Wertheim has noted estrangement with her father and Mrs. Youngberg, and this has caused Ms. Wertheim to become frustrated by her lack of involvement in the care and life of her father;
- Mr. Youngberg and his daughter express love for each other; it is apparent that both father and daughter share the same controlling personalities, and that personality is not meeting with acceptance from Mrs. Youngberg and her son, Daniel Fry, who is playing an ever-increasing role in the financial affairs of the Youngbergs;
- Mr. Youngberg is mentally alert, focuses on subject matter, is oriented to time, place, person, and thing, and does look to his wife for her reassurance on most matters;
- Mr. Youngberg is not aware of the extent of his assets, nor does his wife seem to be so; they were surprised by the list of assets in excess of **\$700,000.00** prepared by their estate planning attorney, David Gromis; they were unaware of the effect of joint tenancy, especially as to any accounts where one of the joint tenants was someone other than the two of them;
- The Youngbergs repeated that on the death of the last of them, they expect their estate to be divided into 4 equal shares, one share to each of the 3 children of Mrs. Youngberg and one share to the only child of Mr. Youngberg;
- **Recommendations:**
 1. A Conservatorship should not be granted to anyone at this point in the state of health of Mr. Youngberg; he apparently has Power of Attorney in favor of Daniel Fry, and that seems to be working well; he has spoken to Attorney Gromis who prepared the estate planning documents which have yet to be executed, and Mr. Gromis may have some hesitation because of a psychological evaluation done by Psychologist Jeffrey Mar, but it appears that Mr. Youngberg is competent in understanding, focusing, and judgment, although he is getting assistance from his wife and her son Daniel Fry, as well as Mr. Gromis;
 2. If a Conservatorship is deemed appropriate, there should be Co-Conservators with Ms. Wertheim being one along with another from Mrs. Youngberg's family; it would be totally inappropriate to grant the *Petition* which would be contrary to the wishes of Petitioner's father and Mrs. Youngberg; it would stir up emotions that would be highly unsettling to the family, and it would not benefit Mr. Youngberg who is being taken care of quite well through residential care and through his wife and his Attorney-in-fact; there is no question that this daughter [Petitioner] can be and should be involved in his life.

Supplement to Petition Regarding Co-Conservators as Suggested by Court-Appointed Counsel filed by Petitioner Carol Wertheim on 7/15/2013 states:

- **Court-appointed Attorney's Report:** In the report filed by the court-appointed attorney for the proposed Conservatee, Attorney Edward Fanucchi, it is suggested on page 2 that if a conservatorship is deemed appropriate by the Court that Ms. Wertheim and Daniel Fry be appointed as Co-Conservators of the person and estate;
- **Petitioner Accepts Proposal:** Notice is hereby given that the Petitioner, Carol Wertheim, accepts advice given by Mr. Fanucchi and asks the Court to appoint her and Daniel Fry as Co-Conservators of the person and estate of her father.

		NO TEMP REQUESTED	NEEDS/PROBLEMS/COMMENTS:
		DANIEL and SHERRON PAGLIOTTI, Parents, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers.	<u>Court Investigator advised rights on 2-11-14</u>
	Aff.Sub.Wit.		<u>Voting rights affected – need minute order</u>
✓	Verified	Voting rights affected	
	Inventory		
	PTC	A Capacity Declaration was filed 2-3-14.	
	Not.Cred.		
✓	Notice of Hrg	Petitioners state the proposed Conservatee has Down syndrome and is a client of CVRC.	
✓	Aff.Mail	He is unable to manage his personal care and cannot be left alone for safety reasons.	
	Aff.Pub.	His physician has determined that he is not competent to make decisions regarding his health care.	
	Sp.Ntc.		
✓	Pers.Serv.	Court Investigator Jennifer Daniel filed a report on 3-3-14.	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		Reviewed by: skc
	Status Rpt		Reviewed on: 3-5-14
	UCCJEA		Updates:
✓	Citation		Recommendation:
	FTB Notice		File 11 – Pagliotti

	TEMP GRANTED EX PARTE EXPIRES 3-10-14	NEEDS/PROBLEMS/COMMENTS:
	GENERAL HEARING 4-29-14	
	LOIS GEORGINE FERRIS and HERMAN RAY FERRIS , Maternal Grandmother and Step-Grandfather, are Petitioners.	
<input type="checkbox"/> Aff.Sub.Wit.		
✓ Verified	Father (all minors): UNKNOWN	1. Need Form GC-020(P) "Proof of Personal Service of Notice of Hearing – Guardianship or Conservatorship" showing personal service on the mother at least five Court days prior to the hearing per Probate Code §2250(e).
<input type="checkbox"/> Inventory	Mother: REBECCA DAWN FRENCH	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Paternal grandparents (all minors): Unknown	(Petitioners used an incorrect attachment to the Notice of Hearing form that appears to indicate mailed service, so it is unclear if the mother has been properly served.)
✓ Notice of Hrg		
<input type="checkbox"/> Aff.Mail	Maternal Grandfather: Not listed	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Petitioners state Dustin has been in in Petitioners' care since January 2013 and they have had Jocelynn and Divana since February 2014, when the mother was arrested. CPS placed the children with Petitioners and advised them to seek guardianship. Petitioners state the mother has extensive criminal and CPS history and the fathers are unknown. The minors have settled in with Petitioners and feel safe and secure in their home. Their teachers have noted huge differences since they have lived with Petitioners. Temporary guardianship is needed so that they will not be placed in the foster care system.	2. Need consent of minor Dustin or proof of personal service of Notice of Hearing with a copy of the temp petition at least five court days prior to the hearing per Probate Code §2250(e).
<input type="checkbox"/> Pers.Serv.	X	
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
✓ Order		3. Petitioners state the fathers of all three of the children are unknown, but have not provided a declaration of due diligence regarding efforts to identify, locate and serve. The Court may require further diligence or service.
<input type="checkbox"/> Aff. Posting		Reviewed by: skc
<input type="checkbox"/> Status Rpt		Reviewed on: 3-5-14
✓ UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 12 – French